

Attachment 6

Letter on behalf of Allison Mack to OPMC, dated February 2, 2018

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February 2, 2018

VIA EMAIL AND FIRST-CLASS MAIL

Jeffrey Conklin, Esq.
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719

Re: OPMC # AL-17-07-4422A

Dear Mr. Conklin:

As you know, this office has been retained by Allison Mack in connection with the Administrative Subpoena ad Testificandum and Duces Tecum (“the Administrative Subpoena”) issue to her by BPMC.

Ms. Mack is neither a licensee of the state of New York, nor a holder of a limited permit, medical resident, physician, physician assistant’s or specialist’s assistant subject to the jurisdiction of the Department of Health. As such the Department of Health has no jurisdiction over Ms. Mack, nor any legal authority to compel her to respond to the Administrative Subpoena. *See* N.Y. Public Health Law §230 generally, and §230(7)(a).

It is Ms. Mack’s position that, inasmuch as she is not subject to the jurisdiction of the Department of Health, the Administrative Subpoena provides no legal compulsion to require her to provide the materials and testimony requested therein. As such, she will not comply with the Administrative Subpoena.

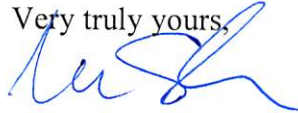
Further, it is Ms. Mack’s position that the Administrative Subpoena is based upon nothing more than an unsubstantiated fishing expedition infringing upon her constitutionally protected personal affiliations and lifestyle choices, and does not satisfy the threshold requirement of a good faith basis by which to compel her response.

In responding to the Administrative Subpoena in the manner set forth herein, Ms. Mack

neither admits nor denies that she has any of the requested items or materials in her possession or under her control, or that she possesses any relevant and material information in connection with BPMC's purported investigation.

Ms. Mack recognizes that BPMC may seek legal redress in the appropriate forum. Should such action be taken, demand is made on behalf of Ms. Mack, that the undersigned be given reasonable advance notice of such action and an opportunity to be heard in connection therewith.

Very truly yours,



Michael S. Kelton

cc: Allison Mack